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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,953	12/10/2003	Rick Pirart	THOLAM P219US	6783

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/731,953	Applicant(s) PIRART, RICK	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Serwatsky. The patent to Serwatsky discloses the recited apparatus for controlling fluid leaks in a pipe connection comprising a clamp 12a,b, forming one half of the clamp structure an 40a,b forming the second half where the two halves together form a circular clamping face, a diversion channel 20 in the circular clamping face of the clamp, a drain outlet 44 provided with a sensor 46 that communicates with the channel, the diversion channel extends substantially circumferentially around the circular clamping face, the clamp is formed of two mating halves, and the sensor is in fluid communication with the drain outlet. It is also stated in the background information that it is old and known in the art to provide a container to catch leakage.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Keeken. The patent to Van Keeken discloses the recited apparatus for controlling fluid leaks in a pipe connection comprising a clamp 1 formed of two halves together to

Art Unit: 3754

form a circular clamping face, a diversion channel 8 in the circular clamping face of the clamp, a drain outlet including an opening into the channel and a tube provided therein 14 where the clamp can be provided with a sensor (see paragraph 0052) that communicates with the channel, the diversion channel extends substantially circumferentially around the circular clamping face, the clamp is formed of two mating halves, and the sensor is in fluid communication with the drain outlet.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Serwatzky or Van Keeken in view of Schreiner. The patents to Serwatzky or Van Keeken disclose all of the recited structure with the exception of using a U bolt to hold the clamping leak repair device to the pipe. The patent to Schreiner discloses that it is old and well known in the art to use various types of bolting methods to attach a repair device to a pipe including the use of a U bolt. It would have been obvious to one skilled in the art to modify the bolts holding the halves together in Serwatzky or Van Keeken by substituting a U bolt to hold the halves together where such is an equivalent method of bolting a repair device to a pipe and where such would be quicker to attach than multiple single bolts, thereby saving money by reducing labor costs to install the device.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serwatzky or Van Keeken in view of the background teachings of Serwatzky. The patents to Serwatzky or Van Keeken disclose all of the recited method with the exception of capturing the leakage in a container. The patent to Serwatzky discloses in the background section that it is old and well known to use containers to catch leaking fluids. It would have been obvious to one skilled in the art to modify the clamping mechanisms in Serwatzky or Van Keeken by providing a container to catch the leaking fluids as suggested by the background of Serwatzky where such would prevent contamination of the atmosphere by containing the leaking fluids thereby saving money in cleaning costs.

Conclusion

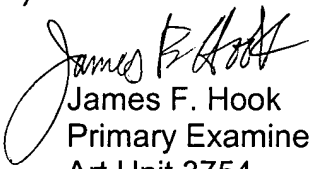
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Woodward, Newell, Walker, Pillette, Burghardt, Timmons (813 and 023), Guyatt, Vanderlee, and Smith, Jr. disclosing state of the art repair clamps for use on pipes where some are provided with drains.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH